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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ARI KOSKI and JOUKO SALO

Appeal 2011-009065
Application 09/019,614¹
Technology Center 2600

Before JOSEPH L. DIXON, JEAN R. HOMERE, and
CAROLYN D. THOMAS, *Administrative Patent Judges*.

THOMAS, *Administrative Patent Judge*.

DECISION ON APPEAL

¹ The real party in interest is Nokia Corporation.

STATEMENT OF THE CASE

Appellants seek our review under 35 U.S.C. § 134 of the Examiner's final decision rejecting claims 1-7, 9-13, 31, and 32, which are all the claims remaining in the application. Claims 8 and 14-30 are cancelled. We have jurisdiction over the appeal under 35 U.S.C. § 6(b).

We REVERSE.

The present invention relates generally to setting audio parameters in a digital signal processor in an electronic device. (*See Spec.*, 1:5-6.)

Claim 1 is illustrative:

1. A method for setting audio parameters controlling processing in a digital signal processor of a mobile communication device comprising the steps of:

connecting at least one auxiliary device, having audio parameters relating to audio properties of the auxiliary device, to the mobile communication device,

loading at least some of the audio parameters from the auxiliary device into the digital signal processor of the mobile communication device for using said at least some of the audio parameters during operation of the mobile communication device when the auxiliary device is connected to the mobile communication device;

conducting two way communication of digital data between the auxiliary device and said mobile communication device by means of operating a microcontroller in said auxiliary device to conduct said two way communication.

Appellants appeal the following rejection:

Claims 1-7, 9-13, 31, and 32 are rejected under 35 U.S.C. § 103(a) as

being unpatentable over Piosenka (US 5,926,756, Jul. 20, 1999) and Wong (US 5,881,103, Mar. 9, 1999).

ANALYSIS

Our representative claim, claim 1, recites, *inter alia*, “*having audio parameters relating to audio properties of the auxiliary device*” (emphasis added). Independent claims 5, 31, and 32 recite commensurate limitations. Thus, the scope of each of the independent claims includes audio properties of the auxiliary device.

Issue: Did the Examiner err in finding that the cited combined teachings, specifically Piosenka, disclose audio parameters relating to audio properties of the auxiliary device, as claimed?

The Examiner found that “[s]ince the audio control data or audio parameters . . . that are being generated by the auxiliary device or PC, these audio parameters are clearly can be [sic] considered as ‘audio properties of the auxiliary device.’” (Ans. 9.)

Appellants contend that “[a]lthough . . . the parameters may have been stored on the PC for downloading to the cellular phone, the parameters are not related to the audio properties of the PC, (the auxiliary device according to the Examiner’s analogy).” (App. Br. 11.) We agree with Appellants.

It appears that the Examiner has concluded that because Piosenka’s PC is responsible for *generating* the audio control data/parameters, such audio control data/parameters are related to the PC, i.e., the auxiliary device. However, claim 1, and all other pending claims, requires “having audio

parameters relating to audio properties of the auxiliary device.” (See Claim 1) (emphasis added.) In other words, the cited audio parameters in Piosenka *must be related* to the audio properties of the PC.

However, we find that the Examiner has failed to establish that such “audio parameters” are related to the audio properties of the PC itself. Instead, in Piosenka, a cellular telephone is programmed via the use of a personal computer (PC) which provides a graphical user interface (GUI) to the user for selecting various programming features and settings *associated with* the cellular telephone to be programmed. (Abstract.) While Piosenka discloses transmitting audio parameters to the cellular telephone (col. 6, ll. 42-46), such audio parameters are *relating to audio properties of the cellular telephone* instead of relating to audio properties of the PC, as required by the claims. We find that the Examiner is overreaching in interpreting “generating” parameters to encompass “relating to audio properties of the auxiliary device,” as the concept of relating to audio properties of the auxiliary device involves potential usage by the auxiliary device, i.e., PC. Piosenka’s audio parameters are only used by the cellular phone. Furthermore, the Examiner has failed to show that the Wong reference makes up for the above-noted deficiencies in Piosenka.

Thus, based on the record before us and for the reasons set forth with respect to claim 1, we find that the Examiner erred in finding that the combined teachings of Piosenka and Wong discloses each limitation recited in Appellants’ claims. Accordingly, we reverse the Examiner’s obviousness rejection of claims 1-7, 9-13, 31, and 32.

Since we agree with at least one of the arguments advanced by Appellants, we need not reach the merits of Appellants’ other arguments. It

follows that Appellants have shown that the Examiner erred in finding that the combined teachings of Piosenka and Wong renders claims 1-7, 9-13, 31, and 32 unpatentable.

DECISION

We reverse the Examiner's § 103 rejection.

REVERSED